



House of Representatives

General Assembly

File No. 555

February Session, 2008

Substitute House Bill No. 5926

House of Representatives, April 9, 2008

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FAMILIES WITH SERVICE NEEDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-148 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) Notwithstanding any provision of this chapter: (1) No child
4 [whose family] who has been adjudicated as a child from a family with
5 service needs in accordance with section 46b-149 of the 2008
6 supplement to the general statutes, as amended by this act, may be
7 processed or held in a juvenile detention center as a delinquent child,
8 or be convicted as delinquent, solely for the violation of a valid order
9 which regulates future conduct of the child that was issued by the
10 court following such an adjudication; and (2) no such child who is
11 found to be in violation of any such order may be punished for such
12 violation by [commitment to] placement in any juvenile detention
13 center.

14 (b) In entering any order that directs or authorizes placement or

15 commitment of a child [whose family] who has been adjudicated as a
16 child from a family with service needs in accordance with section 46b-
17 149 of the 2008 supplement to the general statutes, as amended by this
18 act, the court shall make a determination that there is no less restrictive
19 alternative appropriate to the needs of such child and the community.

20 Sec. 2. Section 46b-149 of the 2008 supplement to the general statutes
21 is repealed and the following is substituted in lieu thereof (*Effective*
22 *October 1, 2008*):

23 (a) Any selectman, town manager, police officer or welfare
24 department of any town, city or borough, any probation officer or
25 superintendent of schools, the Commissioner of Children and Families,
26 any child-caring institution or agency approved or licensed by the
27 Commissioner of Children and Families, any youth service bureau, a
28 parent or foster parent of a child, or a child or the child's representative
29 or attorney, who believes that the acts or omissions of a child are such
30 that the [child's family is] child is from a family with service needs,
31 may file a written complaint setting forth those facts with the Superior
32 Court which has venue over the matter.

33 (b) The court shall refer a complaint filed under subsection (a) of
34 this section to a probation officer, who shall promptly determine
35 whether it appears that the alleged facts, if true, would be sufficient to
36 meet the definition of a family with service needs, provided a
37 complaint alleging that a child is a truant or habitual truant shall not
38 be determined to be insufficient to meet the definition of a family with
39 service needs solely because it was filed during the months of April,
40 May or June. If such probation officer so determines, the probation
41 officer shall, after an initial assessment, promptly refer the child and
42 the child's family to a suitable community-based program or other
43 service provider, or to a family support center as provided in section
44 46b-149e of the 2008 supplement to the general statutes, for voluntary
45 services. If the child and the child's family are referred to a
46 community-based program or other service provider and the person in
47 charge of such program or provider determines that the child and the

48 child's family can no longer benefit from its services, such person shall
49 inform the probation officer, who shall, after an appropriate
50 assessment, either refer the child and the child's family to a family
51 support center for additional services or determine whether or not to
52 file a petition with the court under subsection (c) of this section. If the
53 child and the child's family are referred to a family support center and
54 the person in charge of the family support center determines that the
55 child and the child's family can no longer benefit from its services,
56 such person shall inform the probation officer, who may file a petition
57 with the court in the manner prescribed in subsection (c) of this
58 section. The probation officer shall inform the complainant in writing
59 of the probation officer's action under this subsection. If it appears that
60 the allegations are not true, or that the child's family does not meet the
61 definition of a family with service needs, the probation officer shall
62 inform the complainant in writing of such finding.

63 (c) A petition alleging that a [family constitutes] child is from a
64 family with service needs shall be verified and filed with the Superior
65 Court which has venue over the matter. The petition shall set forth
66 plainly: (1) The facts which bring the child within the jurisdiction of
67 the court; (2) the name, date of birth, sex and residence of the child; (3)
68 the name and residence of the child's parent or parents, guardian or
69 other person having control of the child; and (4) a prayer for
70 appropriate action by the court in conformity with the provisions of
71 this section.

72 (d) When a petition is filed under subsection (c) of this section, the
73 court may issue a summons to the child and the child's parents,
74 guardian or other person having control of the child to appear in court
75 at a specified time and place. The summons shall be signed by a judge
76 or by the clerk or assistant clerk of the court, and a copy of the petition
77 shall be attached to it. Whenever it appears to the judge that orders
78 addressed to an adult, as set forth in section 46b-121 of the 2008
79 supplement to the general statutes, are necessary for the welfare of
80 such child, a similar summons shall be issued and served upon such
81 adult if he or she is not already in court. Service of summons shall be

82 made in accordance with section 46b-128. The court may punish for
83 contempt, as provided in section 46b-121 of the 2008 supplement to the
84 general statutes, any parent, guardian or other person so summoned
85 who fails to appear in court at the time and place so specified. If a
86 petition is filed under subsection (c) of this section alleging that a
87 [family is] child is from a family with service needs because a child is a
88 truant or habitual truant, the court may not dismiss such petition
89 solely because it was filed during the months of April, May or June.

90 (e) When a petition is filed under subsection (c) of this section
91 alleging that a [family constitutes] child is from a family with service
92 needs because [it includes a] such child [who] has been habitually
93 truant, the court shall order that the local or regional board of
94 education for the town in which the child resides, or the private school
95 in the case of a child enrolled in a private school, shall cause an
96 educational evaluation of such child to be performed if no such
97 evaluation has been performed within the preceding year. Any costs
98 incurred for the performance of such evaluation shall be borne by such
99 local or regional board of education or such private school.

100 (f) If it appears from the allegations of a petition or other sworn
101 affirmations that there is: (1) A strong probability that the child may do
102 something that is injurious to himself prior to court disposition; (2) a
103 strong probability that the child will run away prior to the hearing; or
104 (3) a need to hold the child for another jurisdiction, a judge may vest
105 temporary custody of such child in some suitable person or agency. No
106 nondelinquent juvenile runaway from another state may be held in a
107 state-operated detention home in accordance with the provisions of
108 sections 46b-151 to 46b-151g, inclusive, Interstate Compact on
109 Juveniles. A hearing on temporary custody shall be held not later than
110 ten days after the date on which a judge signs an order of temporary
111 custody. Following such hearing, the judge may order that the child's
112 temporary custody continue to be vested in some suitable person or
113 agency. Any expenses of temporary custody shall be paid in the same
114 manner as provided in subsection (b) of section 46b-129 of the 2008
115 supplement to the general statutes.

116 (g) If a petition is filed under subsection (c) of this section and it
117 appears that the interests of the child or the family may be best served,
118 prior to adjudication, by a referral to community-based or other
119 services, the judge may permit the matter to be continued for a
120 reasonable period of time not to exceed six months, which time period
121 may be extended by an additional three months for cause. If it appears
122 at the conclusion of the continuance that the matter has been
123 satisfactorily resolved, the judge may dismiss the petition.

124 (h) If the court finds, based on clear and convincing evidence, that
125 [the family of] a child is from a family with service needs, the court
126 may, in addition to issuing any orders under section 46b-121 of the
127 2008 supplement to the general statutes: (1) Refer the child to the
128 Department of Children and Families for any voluntary services
129 provided by [said] the department or, if the [family is] child is from a
130 family with service needs solely as a result of a finding that [a] the
131 child is a truant or habitual truant, to the authorities of the local or
132 regional school district or private school for services provided by such
133 school district or such school, which services may include summer
134 school, or to community agencies providing child and family services;
135 (2) order the child to remain in the child's own home or in the custody
136 of a relative or any other suitable person (A) subject to the supervision
137 of a probation officer, or (B) in the case of a [family which is] child who
138 is from a family with service needs solely as a result of a finding that
139 [a] the child is a truant or habitual truant, subject to the supervision of
140 a probation officer and the authorities of the local or regional school
141 district or private school; (3) if the [family is] child is from a family
142 with service needs as a result of the child engaging in sexual
143 intercourse with another person and such other person is thirteen
144 years of age or older and not more than two years older or younger
145 than such child, (A) refer the child to a youth service bureau or other
146 appropriate service agency for participation in a program such as a
147 teen pregnancy program or a sexually transmitted disease program,
148 and (B) require such child to perform community service such as
149 service in a hospital, an AIDS prevention program or an obstetrical
150 and gynecological program; or (4) upon a finding that there is no less

151 restrictive alternative, commit the child to the care and custody of the
152 Commissioner of Children and Families for an indefinite period not to
153 exceed eighteen months. The child shall be entitled to representation
154 by counsel and an evidentiary hearing. If the court issues any order
155 which regulates future conduct of the child, parent or guardian, the
156 child, parent or guardian, shall receive adequate and fair warning of
157 the consequences of violation of the order at the time it is issued, and
158 such warning shall be provided to the child, parent or guardian, to his
159 or her attorney and to his or her legal guardian in writing and shall be
160 reflected in the court record and proceedings.

161 (i) At any time during the period of supervision, after hearing and
162 for good cause shown, the court may modify or enlarge the conditions,
163 whether originally imposed by the court under this section or
164 otherwise, as deemed appropriate by the court. The court shall cause a
165 copy of any such orders to be delivered to the child and to such child's
166 parent or guardian and probation officer.

167 [(i)] (j) (1) The Commissioner of Children and Families may [petition
168 the court] file a motion for an extension of a commitment under this
169 section on the grounds that an extension would be in the best interest
170 of the child. The court shall give notice to the child and the child's
171 parent or guardian at least fourteen days prior to the hearing upon
172 such [petition] motion. The court may, after hearing and upon finding
173 that such extension is in the best interest of the child and that there is
174 no suitable less restrictive alternative, continue the commitment for an
175 additional indefinite period of not more than eighteen months. (2) The
176 Commissioner of Children and Families may at any time [petition the
177 court] file a motion to discharge a child committed under this section,
178 and any child committed to the commissioner under this section, or the
179 parent or guardian of such child, may at any time but not more often
180 than once every six months [petition the court which committed the
181 child] file a motion to revoke such commitment. The court shall notify
182 the child, the child's parent or guardian and the commissioner of any
183 [petition] motion filed under this subsection, and of the time when a
184 hearing on such [petition] motion will be held. Any order of the court

185 made under this subsection shall be deemed a final order for purposes
186 of appeal, except that no bond shall be required and no costs shall be
187 taxed on such appeal. (3) Not later than twelve months after a child is
188 committed to the Commissioner of Children and Families in
189 accordance with subdivision (4) of subsection (h) of this section or
190 section 46b-149f of the 2008 supplement to the general statutes, as
191 amended by this act, the court shall hold a permanency hearing in
192 accordance with subsection (k) of this section. After the initial
193 permanency hearing, subsequent permanency hearings shall be held at
194 least once every twelve months while the child remains committed to
195 the Commissioner of Children and Families.

196 (k) At least sixty days prior to each permanency hearing required
197 under subsection (j) of this section, the Commissioner of Children and
198 Families shall file a permanency plan with the court. At each
199 permanency hearing, the court shall review and approve a
200 permanency plan that is in the best interests of the child and takes into
201 consideration the child's need for permanency. Such permanency plan
202 may include the goal of: (1) Revocation of commitment and
203 subsequent placement of the child with the parent or guardian, (2)
204 transfer of guardianship, (3) permanent placement with a relative, (4)
205 adoption, or (5) any other planned permanent living arrangement
206 ordered by the court, provided the Commissioner of Children and
207 Families has documented a compelling reason why it would not be in
208 the best interest of the child for the permanency plan to include the
209 goals set forth in subdivisions (1) to (4), inclusive, of this subsection.
210 Such other planned permanent living arrangement may include, but
211 not be limited to, placement of the child in an independent living
212 program. At any such permanency hearing, the court shall also
213 determine whether the Commissioner of Children and Families has
214 made reasonable efforts to achieve the goals in the permanency plan.

215 Sec. 3. Section 46b-149f of the 2008 supplement to the general
216 statutes is repealed and the following is substituted in lieu thereof
217 (*Effective October 1, 2008*):

218 (a) When a child [whose family] who has been adjudicated as a
219 child from a family with service needs in accordance with section 46b-
220 149 of the 2008 supplement to the general statutes, as amended by this
221 act, violates any valid order which regulates future conduct of the
222 child made by the court following such an adjudication, a probation
223 officer, on receipt of a complaint setting forth facts alleging such a
224 violation, or on the probation officer's own motion on the basis of his
225 or her knowledge of such a violation, may file a petition with the court
226 alleging that the child has violated a valid court order and setting forth
227 the facts claimed to constitute such a violation. Service shall be made
228 in the same manner as set forth for a summons in subsection (d) of
229 section 46b-149 of the 2008 supplement to the general statutes, as
230 amended by this act. The child shall be entitled to representation by
231 counsel and an evidentiary hearing on the allegations contained in the
232 petition. [Upon a finding by the] If the court finds, by clear and
233 convincing evidence, that the child has violated a valid court order, the
234 court may (1) order the child to remain in such child's home or in the
235 custody of a relative or any other suitable person, subject to the
236 supervision of a probation officer or an existing commitment to the
237 Commissioner of Children and Families, (2) upon a finding that there
238 is no less restrictive alternative appropriate to the needs of the child
239 and the community, enter an order that directs or authorizes a peace
240 officer or other appropriate person to place the child in a staff-secure
241 facility under the auspices of the Court Support Services Division for a
242 period not to exceed forty-five days, with court review every fifteen
243 days to consider whether continued placement is appropriate, at the
244 end of which period the child shall be returned to the community and
245 may be subject to the supervision of a probation officer, or (3) order
246 that the child be committed to the care and custody of the
247 Commissioner of Children and Families for a period not to exceed
248 eighteen months and that the child cooperate in such care and custody.

249 (b) When a child [whose family] who has been adjudicated as a
250 child from a family with service needs in accordance with section 46b-
251 149 of the 2008 supplement to the general statutes, as amended by this
252 act, is under an order of supervision or an order of commitment to the

253 Commissioner of Children and Families and believed to be [at risk of
254 immediate] in imminent risk of physical harm from the child's
255 surroundings or other circumstances, a probation officer, on receipt of
256 a complaint setting forth facts alleging such risk, or on the probation
257 officer's own motion on the basis of his or her knowledge of such risk,
258 may file a petition with the court alleging that the child is [at risk of
259 immediate] in imminent risk of physical harm and setting forth the
260 facts claimed to constitute such risk. Service shall be made in the same
261 manner as set forth for a summons in subsection (d) of section 46b-149
262 of the 2008 supplement to the general statutes, as amended by this act.
263 If it appears from the specific allegations of the petition and other
264 verified affirmations of fact accompanying the petition, or subsequent
265 thereto, that there is probable cause to believe that (1) the child is in
266 imminent risk of physical harm from the child's surroundings, (2) as a
267 result of such condition, the child's safety is endangered and
268 immediate removal from such surroundings is necessary to ensure the
269 child's safety, and (3) there is no less restrictive alternative available,
270 the court shall enter an order [directing the placement of] that directs
271 or authorizes a peace officer or other appropriate person to place the
272 child in a staff-secure facility under the auspices of the Court Support
273 Services Division for a period not to exceed forty-five days, subject to
274 subsection (c) of this section, with court review every fifteen days to
275 consider whether continued placement is appropriate, at the end of
276 which period the child shall either be (A) returned to the community
277 for appropriate services, subject to the supervision of a probation
278 officer or an existing commitment to the Commissioner of Children
279 and Families, or (B) committed to the Department of Children and
280 Families for a period not to exceed eighteen months if a hearing has
281 been held and the court has found, based on clear and convincing
282 evidence, that (i) the child is in imminent risk of physical harm from
283 the child's surroundings, (ii) as a result of such condition, the child's
284 safety is endangered and removal from such surroundings is necessary
285 to ensure the child's safety, and (iii) there is no less restrictive
286 alternative available. Any such child shall be entitled to the same
287 procedural protections as are afforded to a delinquent child.

288 (c) No child shall be held prior to a hearing on a petition under this
289 section for more than twenty-four hours, excluding Saturdays,
290 Sundays and holidays. For the purposes of this section, "staff-secure
291 facility" means a residential facility (1) that does not include
292 construction features designed to physically restrict the movements
293 and activities of juvenile residents who are placed therein, (2) that may
294 establish reasonable rules restricting entrance to and egress from the
295 facility, and (3) in which the movements and activities of individual
296 juvenile residents may, for treatment purposes, be restricted or subject
297 to control through the use of intensive staff supervision.

298 Sec. 4. Subsection (j) of section 46b-124 of the 2008 supplement to the
299 general statutes is repealed and the following is substituted in lieu
300 thereof (*Effective October 1, 2008*):

301 (j) Notwithstanding the provisions of subsection (d) of this section,
302 any information concerning a child that is obtained during any mental
303 health screening or assessment of such child, during the provision of
304 services pursuant to subsection (b) of section 46b-149 of the 2008
305 supplement to the general statutes, as amended by this act, or during
306 the performance of an educational evaluation pursuant to subsection
307 (e) of section 46b-149 of the 2008 supplement to the general statutes, as
308 amended by this act, shall be used solely for planning and treatment
309 purposes and shall otherwise be confidential and retained in the files
310 of the entity providing such services or performing such screening, [or]
311 assessment or evaluation. Such information may be further disclosed
312 only for the purposes of any court-ordered evaluation or treatment of
313 the child or provision of services to the child, or pursuant to sections
314 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such
315 information shall not be subject to subpoena or other court process for
316 use in any other proceeding or for any other purpose.

317 Sec. 5. Section 51-181d of the general statutes is repealed and the
318 following is substituted in lieu thereof (*Effective October 1, 2008*):

319 (a) The Chief Court Administrator shall designate a docket separate
320 from the other juvenile matters for the hearing of truancy matters and

321 petitions and motions filed pursuant to section 46b-149 of the 2008
 322 supplement to the general statutes, as amended by this act, in court
 323 locations throughout the state.

324 (b) The Chief Court Administrator shall establish policies and
 325 procedures to implement such truancy docket.

326 Sec. 6. Subsection (b) of section 42 of public act 06-188, as amended
 327 by section 37 of public act 07-4 of the June special session, is repealed
 328 and the following is substituted in lieu thereof (*Effective from passage*):

329 (b) The Families With Service Needs Advisory Board shall (1)
 330 monitor the progress being made by the Department of Children and
 331 Families in developing services and programming for girls from
 332 families with service needs and other girls, (2) monitor the progress
 333 being made by the Judicial Department in the implementation of the
 334 requirements of public act 05-250, (3) provide advice with respect to
 335 such implementation upon the request of the Judicial Department or
 336 the General Assembly, and (4) not later than December 31, 2007, make
 337 written recommendations to the Judicial Department and the General
 338 Assembly, in accordance with the provisions of section 11-4a of the
 339 general statutes, with respect to the accomplishment of such
 340 implementation by the effective date of public act 05-250. The board
 341 shall terminate on ~~[[July 1, 2008]~~ July 1, 2010.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	46b-148
Sec. 2	<i>October 1, 2008</i>	46b-149
Sec. 3	<i>October 1, 2008</i>	46b-149f
Sec. 4	<i>October 1, 2008</i>	46b-124(j)
Sec. 5	<i>October 1, 2008</i>	51-181d
Sec. 6	<i>from passage</i>	PA 06-188, Sec. 42(b)

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Children & Families, Dept.	GF - Cost	Minimal	Minimal
Children & Families, Dept.	GF - Revenue Impact	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes concerning children from Families with Service Needs (FWSN). Specific fiscal impacts are as follows:

Section 2 establishes an annual permanency hearings process for children committed to the Department of Children and Families (DCF) pursuant to a FWSN petition. Enactment of this change will ensure Connecticut's compliance with the federal Adoption and Safe Families Act (ASFA), and will allow for continued claiming of federal financial participation for services provided to Title IV-E¹ eligible FWSN-committed children.

DCF will experience a minimal increase in overtime costs (not expected to exceed \$10,000 a year) due to the need to devote additional staff time in preparing permanency plans and participating in court hearings. There are currently 51 FWSN-committed children in out-of-home placements. These costs will be partially offset by revenues generated via federal financial participation (at 16%).

¹ Title IV-E of the federal Social Security Act authorizes federal reimbursement to states for costs of services provided to eligible children in foster homes or other placements under a court order or voluntary agreement.

It is anticipated that the Judicial Department and the Office of the Attorney General will be able to participate in these hearings within their respective normally budgeted resources.

Section 6 extends, until July 1, 2010, the term of the FWSN Advisory Board. The state agencies represented on this board can continue their participation without requiring additional resources.

The bill also makes various minor, technical and conforming changes that have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5926*****AN ACT CONCERNING FAMILIES WITH SERVICE NEEDS.*****SUMMARY:**

This bill makes a number of changes in the laws governing families with service needs (FWSN) children. These are children under age 16 (or, beginning January 1, 2010, under age 18) who have run away without good cause, are truant or beyond control of their parents or school authorities, or are engaged in certain forms of sexual or immoral conduct.

The law authorizes juvenile court judges to place FWSN children under the supervision of a juvenile probation officer or commit them to the Department of Children and Families (DCF) and to issue orders setting conditions they must meet. The bill:

1. makes information obtained about potential FWSN children receiving diversionary services confidential and limits how it can be used;
2. specifies that judges can modify or enlarge a FWSN child's conditions of supervision, conforming law to existing practice;
3. requires motions alleging that a FWSN child (a) has violated a court order or (b) is in imminent risk and needs to be placed in a staff-secure facility to be served on parties in the same manner as authorized for serving FWSN petitions;
4. sets clear and convincing evidence as the standard judges must use to determine whether a FWSN child has (a) violated a court order or (b) should be committed to DCF after release from a staff-secure facility; and

5. consistent with federal law, requires DCF to develop permanency plans for FWSN children committed to its care, with yearly court reviews.

The bill also extends the sunset law applicable to the FWSN Advisory Board from July 1, 2008 to July 1, 2010 and makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2008, except the sunset date for the FWSN Advisory Committee is effective upon passage.

§ 4 — CONFIDENTIALITY OF PROBATION ASSESSMENTS AND EDUCATION EVALUATIONS

The bill extends existing confidentiality provisions concerning mental health screening and assessments in juvenile matters to information obtained in the course of providing voluntary services to children who would otherwise be the subjects of FWSN court petitions. Under this law, information can be used only for planning and treatment.

It can be further disclosed only (1) for the purposes of court-ordered evaluations, treatment, or services for the child; (2) under mandated child and elder abuse reporting statutes; or (3) pursuant to Judicial Branch disclosure policies and procedures the chief court administrator sets. It cannot be subpoenaed for use in any other proceeding or for any other purpose.

§ 2 — MODIFYING AND ENLARGING SUPERVISION CONDITIONS

The bill allows juvenile courts to modify or enlarge supervision conditions at any time during the period a FWSN child is subject to supervision. They first hold a hearing and find good cause for doing so. This authority extends to conditions the court originally imposed in the FWSN proceeding or otherwise. Copies of orders modifying or enlarging supervision conditions must be delivered to the child, and the child's parents or guardians and probation officer.

§ 3 — SERVICE

The bill requires motions concerning alleged violations of FWSN orders or the need to place a FWSN child in a staff-secure facility to be served in the same manner as is required for serving FWSN and delinquency petitions. The law directs that service include a copy of the motion or petition and a summons to appear in court signed by the judge. It must be made by (1) personally delivering a copy or leaving it at the person's usual place of abode; (2) certified mail, return receipt requested; (3) first class mail; or (4) if other methods fail, by newspaper publication. Service may be made by those legally authorized to serve process, such as judicial marshals; or by probation officers, probation aides, or other indifferent people (CGS § 46b-128).

Current law does not contain specific notice provisions in these situations.

§ 3 — FWSN ORDER VIOLATIONS

By law, children who have been accused of violating valid FWSN court orders are entitled to legal counsel and an evidentiary hearing. The bill specifies that the court must apply the clear and convincing evidence standard to determine whether the violation occurred. This is the same standard that it must apply in making its initial determination that the child is a FWSN child.

The law prohibits placing FWSN placed in detention or adjudicating them as delinquents for violating FWSN orders. Currently, one option that courts have is ordering them to remain in their homes or in the custody of a relative or other suitable person, subject to supervision by a juvenile probation officer. The bill adds to this option by allowing the courts to order that the child remain in an existing DCF commitment.

§ 3 — STAFF-SECURE PLACEMENTS

Current law authorizes courts to order FWSN children to be placed in staff-secure facilities for up to 45 days upon a finding of probable cause that (1) the child is in imminent risk of physical harm from his or her surroundings or other circumstances, (2) immediate removal is

necessary to ensure the child's safety, and (3) placement in a staff-secure facility is the least restrictive alternative available. At the end of the placement, they must be either returned to the community for appropriate services or committed to DCF for up to 18 months.

The bill specifies that staff-secure placement is only an option for FWSN children currently under orders of supervision of DCF commitment. It eliminates use of their procedures when a child has been adjudicated a FWSN child but the court ordered a different disposition, such as being sent home with a warning or receiving mental health or substance abuse treatment through DCF's voluntary services program.

Under the bill, FWSN children cannot be committed to DCF after a staff-secure facility placement unless the court holds a hearing and finds, by clear and convincing evidence, that:

1. the child is in imminent risk of physical harm from the child's surroundings;
2. as a result, the child's safety is endangered and removal from these surroundings are necessary to ensure the child's safety; and
3. commitment to DCF is the least restrictive alternative available.

The bill specifies that when these children are returned to their communities following the placement, they are still subject to court-ordered supervision or commitment conditions.

PERMANENCY PLANS

Federal law and regulations require DCF to create permanency plans for status offenders, such as FWSN children, who have been committed to its care (45 CFR § 1356.21). The bill codifies this requirement, creating planning requirements and court review procedures that mirror those currently applicable to children committed to the department under its delinquency and child

protection mandates.

The bill requires the first court permanency hearing to be held no later than 12 months after the commitment, with annual reviews as long as the child remains under commitment.

At least 60 days before the hearing, the DCF commissioner must file the permanency plan with the court. The plan may include the goal of:

1. revoking the commitment and placing the child with a parent or guardian,
2. transferring guardianship,
3. permanent placement with a relative, or
4. adoption.

Court Review

Courts must review and approve permanency plans that are in the best interests of the child and take into consideration the child's need for permanency. The court may order some other planned permanent living arrangement if it finds that the commissioner has documented a compelling reason why it would not be in the child's best interests to set one of the permanency goals listed above. The bill specifies that other arrangements may include placing the child in an independent living program.

The bill also requires the court to make a finding at each permanency hearing as to whether the commissioner has made reasonable efforts to achieve the permanency plan's goals.

BACKGROUND

Staff-Secure Facilities

Staff-secure facilities are residential facilities:

1. that do not include construction features designed to physically restrict the movements and activities of residents and

2. in which the movements and activities of individual juvenile residents may be restricted or subject to control for treatment purposes through the use of staff supervision.

They may have reasonable rules restricting entrance to and exit from the facility.

FWSN Advisory Board

Public Act 06-188 established the FWSN Advisory Board and directed it to:

1. monitor the progress made by the Court Support Services Division of the Judicial Branch (CSSD) and DCF in developing services and programming for children and youth from families with service needs and addressing problems unique to girls in the juvenile justice population;
2. monitor the progress being made by the Judicial Branch in eliminating the use of detention for FWSN-order violators;
3. provide advice with respect to implementation upon request of the Judicial Branch or the General Assembly; and
4. make written recommendations to the Judicial Branch and the General Assembly with respect to the accomplishment of implementation of Public Act 05-250, no later than December 31, 2007.

Its membership includes legislative, judicial, and executive branch officials and juvenile justice advocates.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (03/24/2008)